



Office of the Attorney General

State of Texas

September 10, 1998

DAN MORALES

ATTORNEY GENERAL

Ms. Leah Davis-Bates
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR98-2166

Dear Ms. Davis-Bates:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 117898.

The Texas Department of Public Safety (the "department") received an open records request for "a copy of the 2/10/98 Compliance Review conducted on Transit Mix Concrete and Materials located in Beaumont." In response to the request, you submit to this office for review a copy of the information at issue. You state that you will release to the requestor "parts A and B of the requested report."¹ However, you contend that "part C of the report is exempt from disclosure pursuant to Section 552.108 of the Government Code." We have considered the exception you claim and have reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication;

¹Basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

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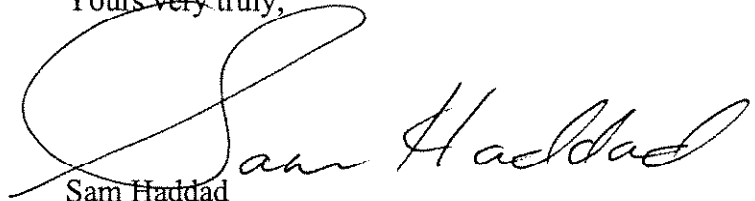
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. You state that the report at issue "contains internal notes maintained by the Department for internal use in matters relating to law enforcement." To show the applicability of section 552.108(b)(2), a governmental body should demonstrate that the requested internal records relate to a concluded criminal investigation that has come to some type of final result other than a conviction or deferred adjudication. *See* Open Records Decision No. 434 (1986) (when section 552.108 is claimed, it must be determined whether release would undermine a legitimate interest of law enforcement or prosecution and case-by-case approach is necessary).

You assert that "[p]ursuant to Chapter 644, Transportation Code, the Department routinely inspects motor carriers to verify they are in compliance with all applicable state law governing said vehicles."² You state that "part C of the [requested] report contains internal notes maintained by [the Department] for internal use in matters relating to law enforcement. Furthermore, part C of this report relates to an investigation that did not result in conviction or deferred adjudication." Consequently, we find that you have shown the applicability of section 552.108(b)(2) for the submitted information at issue. Therefore, we conclude that the submitted records may be withheld under section 552.108(b)(2) of the Government Code.³

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", written over a horizontal line.

Sam Haddad
Assistant Attorney General
Open Records Division

²According to subchapter D of Chapter 644, there are criminal, civil and administrative penalties associated with offenses under the chapter.

³The department, however, has discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

SH/mjc

Ref.: ID# 117898

Enclosures: Submitted documents

cc: Ms. Chris Belcher
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(w/o enclosures)